

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

KENNETH D. ROGERS,)	
)	
Plaintiff,)	
)	
v.)	1:05CV1063
)	
DETECTIVE O'DONALD and)	
EIGHT UNKNOWN DEFENDANTS,)	
)	
Defendants.)	

MEMORANDUM OPINION

Beaty, District Judge.

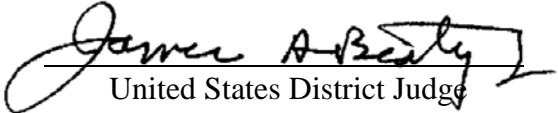
This matter is before the Court on an unopposed Motion to Dismiss [Document #4] filed by Defendants Detective O'Donald and Eight Unknown Defendants ("Defendants"), all of whom are police officers with the City of Concord, North Carolina. Plaintiff, who is *pro se*, brings this suit pursuant to 42 U.S.C. § 1983 for an allegedly unconstitutional search of his home conducted by Concord Police Officers on November 3, 2005. In their Motion to Dismiss, Defendants note that in the Complaint, Plaintiff concedes that he had "agreed to warrantless searches by his probation officer" as well as other similar conditions "during the period of house arrest." Plaintiff also concedes that the search was conducted by "the defendants and the plaintiff's probation officer." As in previous cases filed by Plaintiff against the City of Concord Police Department and its officers, Plaintiff has not filed a Response Brief or any other response

to the Motion to Dismiss.¹

The Court has considered the allegations in Plaintiff's Complaint and the contentions in Defendants' Motion to Dismiss, and the Court concludes that Defendants' Motion to Dismiss should be granted. In this regard, the Court notes that Plaintiff failed to respond to the Motion to Dismiss, even though he was specifically warned that if he failed to respond, the Motion would be treated as unopposed and the case would be dismissed. Local Rule 7.3(k) provides that "[i]f a respondent fails to file a response within the time required by this rule, the motion will be considered and decided as an uncontested motion, and ordinarily will be granted without further notice." Because Plaintiff failed to file a response to the Motion to Dismiss, the Court concludes that the Motion to Dismiss [Document #4] should be granted, and this case should be dismissed with prejudice.

An Order and Judgment consistent with this Memorandum Opinion will be filed contemporaneously herewith.

This, the 25th day of May, 2006.


United States District Judge

¹ The Court notes that this is the fifth lawsuit filed by Plaintiff with this Court in the past five years against the City of Concord Police Department or its officers. Plaintiff's most recent case (No. 1:04CV739) was dismissed for failure to comply with the Court's Orders and Failure to Prosecute pursuant to Federal Rules of Civil Procedure 37 and 41.